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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,669	04/21/2006	Adelmo Giovannini	GIOVANNINI 3 PCT	5714

25889 7590 10/16/2008

COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

EXAMINER	
NGUYEN, MAI T	

ART UNIT	PAPER NUMBER
3671	

MAIL DATE	DELIVERY MODE
10/16/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/576,669	GIOVANNINI, ADELMO	
	Examiner	Art Unit	
	MAI T. NGUYEN	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 June 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3 and 7-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3 and 7-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 2 and 8 are objected to because of the following informalities:

"the part" lacks antecedent basis since it was not previously set forth, see line 2; and

"the first arm" should be –the first working arm-- since the rake wheels are set on the first working arm, see lines 3 and 5. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-3 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peeters (US 5,598,691) in view of Allen (US 4,932,197) and Moshi (US 6,865,868).

Regarding claims 1, 7 and 10, Peeters discloses a V-shaped rake in figures 1, 3, 6 and 8 comprising a vertical frame formed by first and second uprights 100, 102 connected by cross-member 96 which is hinged by joints 108, 110 to first arms 24, 26 carrying rakes 152, 172, the cross-member being connected to drawbar 22, which is connected by second arms 28, 30 to the first arms, the second arms being slidable along the drawbar so as to move the first arms from a resting position parallel to the

drawbar and to a working position divaricated with respect to the drawbar; the vertical uprights provided with a means of linear translation 344; and the drawbar carries means 88 for controlling movement of the first arms. Peeters fails to disclose the rakes forming a Y-shape when in the working position and Oldham couplings.

Allen teaches a similar rake 10 for raking hay having two offset working arms 180 wherein one arm extends further than the other arm and forms a Y-shape, as seen in figure 5.

Moshi teaches using Oldham couplings for alignment coupling 120 to compensate for misalignment of two shafts in the lawn mower art, see column 7, paragraph 2.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the rake of Peeters with offset working arms that form a Y-shape as taught by Allen and with Oldham couplings as taught by Moshi because it is well known in the hay rake art to have one rake arm extend further than another rake arm to ensure the area between the two arms is raked when the hay rake is extending in its working position thereby allowing for a wider span of raking for efficient hay raking and it is well known to use Oldham couplings to compensate for misaligning members thereby allowing quick and efficient connections.

Regarding claims 2, 3, 8 and 9, the combination of Peeters, Allen and Moshi discloses the rake wheels wherein the rake wheels on a part of the second working arm projecting beyond the first end of the first working arm, as seen in the left end of Allen's figure 5, are arranged in front of the corresponding rake wheels set on the first working

arm so as to be superposed partially when looking at the rake wheels from the bottom end of figure 5 towards the top end.

While the above rejection reads on applicant's claims, the following rejection is further provided to emphasize the teaching of Y-shaped working arms.

4. Claims 1-3 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peeters in view of Allen in view of Crowe et al. (US 2,602,280) and Moshi.

Regarding claims 1, 7 and 10, Peeters discloses a V-shaped rake in figures 1, 3, 6 and 8 comprising a vertical frame formed by first and second uprights 100, 102 connected by cross-member 96 which is hinged by joints 108, 110 to first arms 24, 26 carrying rakes 152, 172, the cross-member being connected to drawbar 22, which is connected by second arms 28, 30 to the first arms, the second arms being slidable along the drawbar so as to move the first arms from a resting position parallel to the drawbar and to a working position divaricated with respect to the drawbar; the vertical uprights provided with a means of linear translation 344; and the drawbar carries means 88 for controlling movement of the first arms. Peeters fails to disclose the rakes forming a Y-shape when in the working position and Oldham couplings.

Allen teaches a similar rake 10 for raking hay having two offset working arms 180 wherein one arm extends further than the other arm and forms a Y-shape, as seen in figure 5.

Crowe further teaches a rotary rake having two working arms 11, 12 forming a Y-shape wherein one working arm 11 extends passed a longitudinal axis 2 of a midline of the rake, see fig. 11.

Moshi teaches using Oldham couplings for alignment coupling 120 to compensate for misalignment of two shafts in the lawn mower art, see column 7, paragraph 2.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the rake of Peeters with working arms that form a Y-shape as taught by Allen and Crowe and with Oldham couplings as taught by Moshi because it is well known in the hay rake art to have one rake arm extend further than another rake arm to ensure the area between the two arms is raked when the hay rake is extending in its working position thereby allowing for a wider span of raking for efficient hay raking and it is well known to use Oldham couplings to compensate for misaligning members thereby allowing quick and efficient connections.

Regarding claims 2, 3, 8 and 9, the combination of Peeters, Allen, Crowe and Moshi discloses the rake wheels wherein the rake wheels on a part of the second working arm projecting beyond the first end of the first working arm are arranged in front of the corresponding rake wheels set on the first working arm so as to be superposed partially, as best seen in Crowe, the right end of fig. 1.

Response to Arguments

5. Applicant's arguments with respect to claims 1-3 and 7-10 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that the claimed invention is aimed at solving a significant problem by enabling overturning and removal of all the material, grass, hay and the like, over which the rake passes, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case, as claimed and seen in the specification, the structure of a first working arm extending further than a second working arm constitutes a “y” shape and enables the rake to overturn and remove all material. As clearly seen in the left end of figure 5 of Allen and in the rejection above, one raking arm extends further than the other raking arm as required by claim 1. Further, the arms are considered superposed since the definition of superpose from dictionary.com is "to place above or upon something else, or one upon another."

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re*

Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, applicant argues that a person of ordinary skill would not combine the structure of Allen with that of Peeters to arrive at applicant's invention because the arms of Peeters are hinged at their ends, whereas the arms of Allen are hinged at intermediate points. However, applicant's raking arms essentially are hinged at the same location of each arm since the cross member that connects the arms extends perpendicularly across the draw bar to connect the two arms. Applicant merely calls the intermediate point of the second working arm as such because the first end of the second working arm extends further than that of the first working arm in order to form the "y" shape.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In this case, Allen teaches extending one working arm further than the other working arm, as seen above.

In response to applicant's argument that an Oldham coupling used in a mower is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for

rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, while used in the mower art to connect misaligned shafts, Oldham couplings are generally known for its application in connecting misaligned members, which is the teaching that is applied to the combination of Peeters and Allen.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MAI T. NGUYEN whose telephone number is (571)272-7662. The examiner can normally be reached on Monday-Friday 8:00a-5:00p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on (571) 272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas A Beach/
Primary Examiner, Art Unit 3671

Mtn
10/7/08